

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

**PAUL M. GAYLE-SMITH,
Plaintiff,**

**LEAD BANKRUPTCY
CASE NO. 12-4009-RJK**

v.

**MICHAEL FODY III,
Defendant.**

COMPLAINT

1. Plaintiff, Paul M. Gayle-Smith, a creditor of the debtor Michael Fody III (Defendant or Fody), 11 U.S.C. Section 523 (a)(2)(A) files this pro se complaint challenging the dischargeability of Defendant's debt to him for several years of legal representation.

JURISDICTION AND VENUE

2. Defendant filed a voluntary petition for bankruptcy in Case No. 12-4009.
3. Plaintiff is a named creditor in the Petition.
4. This court has personal jurisdiction over the parties.
5. Venue is proper in this jurisdiction.

ALLEGATIONS OF FACT

6. Since December 2007 Plaintiff has provided legal representation regarding family law issues related to child support, custody and visitation regarding Debtor's minor child.
7. Plaintiff and Defendant entered a written contract that provided for payment for the legal representation based on hours worked by Plaintiff in representing Defendant. Plaintiff spent more than 600 hours on Defendant's case (trial, hearings, motions, counseling, etc).

8. On numerous occasions Defendant made statements and representations both express and implied regarding his assets specific assets (real estate, insurance polices, investment and retirement accounts, shares, etc).
9. Plaintiff has recently determined that Defendant does not currently own the type or amount of assets that he had previously claimed.
10. Plaintiff has recently determined that Defendant is claiming exemptions for some of the assets which her previously stated that he would use to pay of his debt to Plaintiff.
11. Plaintiff has reason to believe that Defendant made false representations and otherwise acted under false pretenses to induce Plaintiff to provide legal representation without receiving payment prompt or full payment.
12. Plaintiff justifiably relied on Defendants false representation to extend him credit in the form of legal representation which Defendant promised to pay for in installments.
13. Plaintiff has never demanded Defendant pay off the full balance of his debt or threatened to sue Defendant or otherwise to seek collection of the debt.
14. Plaintiff has determined from Defendant's voluntary petition for bankruptcy that he is Defendant's largest creditor and that it appears that Defendant has sufficient funds to pay back his loan.

COUNT I

11 U.S.C. SECTION 523 (a)(2)(A)

15. Plaintiff incorporates by reference each of the allegations set forth in the preceding paragraphs.
16. Defendant appears to have obtained credit from Plaintiff by making false representations, and by false pretenses and actual fraud in violation of both state and federal law.

17. Plaintiff's reliance on Plaintiff's false representations, false pretenses and actual fraud was reasonable and justified.

18. Discharge of the debt Defendant owes Plaintiff would be improper in the circumstances.

RELIEF REQUESTED

Plaintiff respectfully requests that for the reasons stated herein the court refrain from discharging the debt Defendant owes Plaintiff and provide Plaintiff such other relief it deems just and proper.

RESPECTFULLY SUBMITTED this 3rd day of December 2012.



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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of December 2012, I filed a copy of the foregoing complaint through the court's CM-ECF system for service on all counsel of record, if any, and that I will seek a summons and will promptly mail the summons and complaint to Defendant at 1230 14th St N, St Cloud, MN 56303.



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